

Slade R. Metcalf (SM 8360)  
Rachel F. Strom (RS 9666)  
Hogan & Hartson LLP  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000

*Attorneys for Defendant  
Dow Jones & Company, Inc*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
BRETT MCKENZIE, :  
: :  
: Plaintiff, :  
: :  
: :  
: – against – :  
: :  
: DOW JONES & COMPANY, INC., :  
: :  
: Defendant. :  
-----X

**PLEASE TAKE NOTICE**, that upon the annexed declaration of Slade R. Metcalf, sworn to the 21st day of May, 2008, and the exhibit annexed thereto, and upon all prior papers and proceedings heretofore had herein, the undersigned will move this Court, before the Honorable Shira A. Scheindlin, United States District Judge, United States District Court, Southern District of New York, at the United States Courthouse, Courtroom 15C, 500 Pearl Street, New York, New York 10007, at a date and time as shall be set by the Court, for an order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the complaint of plaintiff Brett McKenzie (“Plaintiff”) with prejudice as against defendant Dow Jones & Company, Inc. in its entirety, and granting such other and further relief as this Court may deem appropriate. Oral argument, if any, will be on a date and at a time to be designated by the Court.

**PLEASE TAKE FURTHER NOTICE** that, opposition papers, if any, shall be served by Plaintiff within ten business days after service of the motion papers in accordance with Rule 6.1(b) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York.

Dated: May 21, 2008

Respectfully submitted,

HOGAN & HARTSON LLP

By: s/ Slade R. Metcalf  
Slade R. Metcalf (SM 8360)  
Rachel F. Strom (RS 9666)  
HOGAN & HARTSON LLP  
875 Third Avenue  
New York, New York 10022  
Tel. (212) 918-3000  
Fac. (212) 918-3100

*Attorneys for Defendant  
Dow Jones & Company, Inc.*

TO: Richard M. Mortner  
40 Broad Street, 5<sup>th</sup> Floor  
New York, NY 10004  
Tel: (212) 480-2181  
*Attorney for Plaintiff Brett McKenzie*

Slade R. Metcalf (SM 8360)  
 Rachel F. Strom (RS 9666)  
 Hogan & Hartson LLP  
 875 Third Avenue  
 New York, NY 10022  
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UNITED STATES DISTRICT COURT  
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BRETT MCKENZIE,	:
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Plaintiff,	:
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- against -	:
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	:
DOW JONES & COMPANY, INC.,	:
	:
	:
Defendant.	:
	:
	X-----

**CERTIFICATE OF SERVICE**

I, Rachel F. Strom, hereby certify that on May 21, 2008, I caused a true and correct copy of the Notice Of Motion, Memorandum Of Law of Dow Jones & Company, Inc. In Support of Its Motion To Dismiss The Complaint, and the Declaration Of Slade R. Metcalf In Support Of Defendant's Motion To Dismiss The Complaint and the exhibit annexed thereto, to be served through the Court's electronic notification system and by Federal Express overnight delivery upon:

Richard M. Mortner  
 40 Broad Street, 5<sup>th</sup> Floor  
 New York, NY 10004  
 Tel: (212) 480-2181  
*Attorney for Plaintiff Brett McKenzie*

Dated: May 21, 2008

s/ Rachel F. Strom  
 RACHEL F. STROM (RS 9666)